

U.S. Application No. 10/057,816, filed January 24, 2002
Attorney Docket No. 14419US01
Amendment dated May 27, 2009
In Response to Office Action mailed May 26, 2009

REMARKS

Claims 26-31, 75, 76, 78-89, 91-101, 103-112, 115-126, 128-140 and 142-172 are pending.

Claims 26-31, 75, 76, 78-89, 91-101, 103-112, 115-126, 128-140 and 142-170 are allowed.

Claims 171 and 172 are subject to a restriction and/or election requirement. However, the restriction and/or election requirement has been traversed in view of discussions with Examiner Vo in a telephone interview on May 27, 2009.

Interview Summary. Applicants' representative, Michael T. Cruz, Reg. No. 44,636, called Examiner Vo concerning the restriction and/or election requirement on May 27, 2009. In discussions with Examiner Vo concerning claims 171 and 172, *it was agreed* that if Applicants amended claims 171 and 172 to include the elements "based upon the evaluation," then Examiner Vo would withdraw the restriction and/or election requirement and, according to Examiner Vo, the application would be in condition for allowance.

Accordingly, Applicants have amended claims 171 and 172 in view of the guidance provided by Examiner Vo in the telephone interview of May 27, 2009 to traverse the restriction and/or election requirement.

In view of the amendment made to claims 171 and 172 and in view of the consultation with Examiner Vo, it is respectfully requested that the restriction and/or election requirement be withdrawn since claims 171 and 172, as amended, are no longer directed to a non-elected invention.

It is believed that the present application is in condition for allowance.

Applicants do not necessarily agree or disagree with the Examiner's characterization of

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the documents made of record, either alone or in combination, or the Examiner's characterization of recited claim elements. Furthermore, Applicants respectfully reserve the right to argue the characterization of the documents of record, either alone or in combination, to argue what is allegedly well known, allegedly obvious or allegedly disclosed, or the characterization of the recited claim elements should that need arise in the future.

Applicants respectfully reserve the right to pursue, without prejudice, subject matter that has been withdrawn, cancelled and/or amended in a continuing and/or related application.

Applicants do not necessarily agree or disagree with the Examiner's characterization of the alleged support of recited claim elements in particular disclosures or of the alleged effective filing dates of the claimed inventions. Applicants respectfully reserve the right to argue the effective filing dates of the claimed inventions and any other priority issues should that need arise in the future.

With respect to the present application, Applicants hereby rescind any disclaimer of claim scope made in the parent application or any predecessor or related application. The Examiner is advised that any previous disclaimer of claim scope, if any, and the alleged prior art that it was made to allegedly avoid, may need to be revisited. Nor should a disclaimer of claim scope, if any, in the present application be read back into any predecessor or related application.

In view of at least the foregoing, it is respectfully submitted that the present application is in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, to charge any fee deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: May 27, 2009

Respectfully submitted,

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